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Peter V. Radatti  
CyberSoft, Inc.  
1508 Butler Pike  
Conshohocken, PA 19428-1322

EXAMINER

NGUYEN, DUSTIN

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/886,169	<b>Applicant(s)</b> THOMAS, MARK G.	
	<b>Examiner</b> Dustin Nguyen	<b>Art Unit</b> 2154	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1 – 19 are presented for examination.

#### *Response to Arguments*

2. Applicant's arguments filed 01/31/2006 have been fully considered but they are not persuasive.
3. As per remarks, Applicants' argued that (1) Maher does not meet the claimed element of "indicating, via said proscribed code scanner to said transfer component, whether said code contains proscribed code, *without transmitting said code to said transfer component*".
4. As to point (1), Maher discloses a proscribed code scanner [ i.e. content scanning engine 306 ] [ 306, Figure 3 ] and transfer component [ i.e. content scanning engine interface 344 ] [ 344, Figure 3; and col 9, lines 24-29 ] and Maher further discloses indicating [ i.e. conclusion ], whether said code contains proscribed code, without transmitting said code to said transfer component [ i.e. a conclusion is generated in response to the scanning by the content scanning engine, the conclusion is a programmable and can represent any information or instruction desired by the user, the conclusion will indicate that more scanning is required using the next block of data or that an action, or instruction, needs to be performed by the content processor by sending it to the host processor for further processing ] [ Abstract; and col 3, lines 7-15 ] and that

conclusion of the content scanning are then sent back to the payload scanning interface 344 [ i.e. indicating via said proscribed code scanner to said transfer component ] [ col 9, lines 58-60 ].

5. In response to Applicants' argument that both Bandini and Card references possess a filing date later than the instant case, the filing date of Bandini's provisional application is 07/24/1997 and the filing date of Card's provisional application is 04/13/2001, which are prior to the filing date of the instant case.

6. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to a person skill in the art at the time the invention was made to combine Maher and Bandini because Bandini's teaching of email's relaying, scanning and filtering would prevent spam email from unsolicited sender.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 5, 10, 14-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Maher, III et al. [ US Patent No 6,381,242 ].

9. As per claim 1, Maher discloses the invention substantially as claimed including a method for processing stored and forwarded code [ Abstract; Figure 2; and col 5, lines 42-col 6, lines 19 ] comprising:

transferring code, from a storage component, to a transfer component [ i.e. packet loader 340 loads block of data from packet memory 112 to context buffers 342 for scanning engine interface 344 ] [ 112, Figure 2; 340, Figure 3; and col 9, lines 15-23 ];

transferring said code, from said transfer component, to proscribed code scanner [ i.e. scanning engine interface 344 sends a new context to content scanning engine 306, where the interface 344 is the interface between context engine 304 and content scanning engine 306 ] [ 344, Figure 3; and col 9, lines 24-42 ];

indicating, via said proscribed code scanner to said transfer component, whether said code contains proscribed code, without transmitting said code to said transfer component [ i.e. the conclusion of the content scanning are then sent back to the scanning interface 344 ] [ col 9, lines 58-col 10, lines 13 ]; and

transferring said code to at least one secondary storage component based on said indication [ i.e. QoS processor 116 takes the conclusion from content processor 110 and assigns

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the data packet to one of its internal QoS queues 132 based on the conclusion ] [ 116, Figure 2; and col 7, lines 18-34 ].

10. As per claim 5, Maher discloses email [ col 5, lines 26-31; and col 10, lines 42-46 ].

11. As per claim 10, it is rejected for similar reasons as stated above in claims 1 and 5.

12. As per claim 14, it is rejected for similar reasons as stated above in claim 1. Furthermore, Maher discloses transfers said code to either said first or second secondary storage component based upon the presence or absence of proscribed code as indicated by said proscribed code scanner [ i.e. compare context with the known string to see whether there is a potential match ] [ col 9, lines 42-col 10, lines 13 ].

13. As per claim 15, it is rejected for similar reasons as stated above in claim 5.

14. As per claim 16, Maher discloses a sendmail queue [ 132, Figure 2; and col 7, lines 18-34 ].

15. As per claim 17, it is rejected for similar reasons as stated above in claims 1, 5 and 14.

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16. As per claim 18, it is rejected for similar reasons as stated above in claims 1, 5 and 14.

Furthermore, Maher discloses a computer-readable signal bearing medium and storage means in the medium for storing code [ Figure 2; and col 1, lines 36-57 ].

17. As per claim 19, it is rejected for similar reasons as stated above in claim 1.

***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 2, 3, 6, 7, 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maher, III et al. [ US Patent No 6,381,242 ], in view of Bandini et al. [ US Patent Application No 2002/0199095 ].

20. As per claim 2, Maher does not specifically disclose the step of transferring said code from said at least one secondary storage component to a subsequent code transfer component.

Bandini discloses the step of transferring said code from said at least one secondary storage component to a subsequent code transfer component [ i.e. first and second e-mail relays ] [ 36, 46, Figure 1; and paragraphs 0014 and 0040 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Maher and Bandini

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because Bandini's teaching of additional e-mail relays would enable of sharing of SPAM database which allow for increased detection of SPAM messages [ Bandini, paragraph 0040 ].

21. As per claim 3, Bandini discloses the step of sorting said code prior to transfer to said at least one secondary storage component [ paragraphs 0025 and 0028 ].

22. As per claim 6, it is rejected for similar reasons as stated above in claims 1 and 3.

23. As per claim 7, it is rejected for similar reasons as stated above in claim 2.

24. As per claim 9, it is rejected for similar reasons as stated above in claim 5.

25. As per claim 11, it is rejected for similar reasons as stated above in claims 2 and 5.

26. As per claim 12, it is rejected for similar reasons as stated above in claims 3 and 5.

27. Claims 4, 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maher, III et al. [ US Patent No 6,381,242 ], in view of Bandini et al. [ US Patent Application No 2002/0199095 ], and further in view of Card et al. [ US Patent No 6,941,478 ].



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28. As per claim 4, Maher and Bandini do not specifically disclose the step of transferring code to at least two secondary storage components, with a first of at least two secondary storage components receiving smaller stored and forwarded code and a second of at least two secondary storage components receiving larger stored and forward code. Card discloses the step of transferring code to at least two secondary storage components, with a first of at least two secondary storage components receiving smaller stored and forwarded code and a second of at least two secondary storage components receiving larger stored and forward code [ i.e. determine is made whether a message component exceed a pre-determined size, N ] [ 621, Figure 6; and col 13, lines 65-col 14, lines 9 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Maher, Bandini and Card because Card's teaching would allow to determine what message that needs to be scanned with new updated information [ Card, col 2, lines 9-28 ].

29. As per claim 8, it is rejected for similar reasons as stated above in claim 4.

30. As per claim 13, it is rejected for similar reasons as stated above in claims 3-5.

31. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Prior Art Cited***

33. The cited prior art Gainey et al. [ US Patent No 6,941,304 ] teaches an enterprise email system using a set of configuration rules that examine each message for a specific attribute state condition and invoke a configuration action when the attribute satisfies the condition [ Abstract ]. In addition, Gainey discloses a well-known feature of transferring code from said at least one secondary storage component to subsequent code transferring component [ i.e. a message may subsequently be routed into different message queues depending on the message categorization or direct routing commands from users of the enterprise mail system ] [ col 11, lines 19-30 ].

34. The cited prior art Kim et al. [ US Patent No 6,701,440 ] teaches a system for a remote network-based application service offering virus scanning, sniffing, or detecting of e-mail viruses prior to the e-mail messages arriving at the destination system [ Abstract ]. In addition, Kim discloses a well-known feature of transferring code from said at least one secondary storage

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component to subsequent code transferring component [ i.e. receiving an incoming e-mail message at a remote e-mail receiving server, scanning the e-mail message for virus, forwarding the e-mail message if it is clean to a remote e-mail server, attempting to clean the e-mail message if it is infected to generate a cleaned e-mail message, forwarding the cleaned e-mail message, if any, to the remote e-mail sending server, and forwarding the clean or cleaned e-mail message to the destination e-mail address ] [ Abstract; and col 3, lines 32-43 ].

35. The cited prior art Chazin [ US Patent No 6,493,696 ] teaches a process for sorting messages received by the message system for a user [ col 1, lines 6-13 ].

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached at (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen

Examiner

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 JOHN FOLLANSBEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100